



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, Ca. 94105-3901

O.U.2  
8W  
SFUND RECORDS CTR  
25660

September 3, 1993

**CERTIFIED MAIL: P-389-854-801**  
**RETURN RECEIPT REQUESTED**

Harry Gantz  
DuBois Chemical/Diversey Corporation  
15010 East Don Julian Road  
City of Industry, CA 91749

Re: Unilateral Administrative Order No. 93-23  
San Gabriel Valley Superfund Sites Areas 1-4

Dear Mr. Gantz:

The enclosed Administrative Order, No. 93-23, requires you to conduct a Partial Remedial Investigation in the Puente Valley Operable Unit of the San Gabriel Superfund Sites. The U.S. Environmental Protection Agency ("EPA") believes that activities at your facility have resulted in contamination in the unsaturated zone beneath this property and the underlying ground water.

On May 26, 1993, EPA issued you a Special Notice Letter pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9601 et seq. ("CERCLA") for the Puente Valley RI/FS. Pursuant to this Special Notice Letter, a Good Faith Offer to complete the tasks set forth in the Special Notice Letter was due on or before August 1, 1993. You have failed to submit a Good Faith Offer. Based on your failure to provide a Good Faith Offer, EPA is ordering you to conduct a Remedial Investigation pursuant to Section 106 of CERCLA.

The Puente Valley Operable Unit consists of large areas of contaminated groundwater resulting from multiple sources. EPA has determined that the most expedient way of addressing the operable unit-wide problem is to order Special Noticed-potentially responsible parties ("PRPs") who have failed to submit a Good Faith Offer to investigate a portion of the Operable Unit that was required in EPA's Statement of Work (SOW). In addition to DuBois Chemical/Diversey Corp., EPA is ordering one other PRP to conduct the required remedial investigation: GOE Engineering Co., Inc.

Please be aware that, pursuant to Section XX of this Order, you must provide EPA with written notice of your intent to comply

with the Order within two (2) days of the Effective Date of this Order. If EPA does not receive such notification, you will be deemed in violation of the Order. Pursuant to 42 U.S.C. 9607(c)(3), if EPA conducts the Remedial Investigation because you choose not to, you may be liable for up to three (3) times the cost incurred by EPA.

As set forth in Section XXI of this Order, if you desire a conference to discuss your implementation of the Order with EPA, you must make a request within three (3) days of the date of receipt of this Order. The request for a conference must be made by telephone, followed by written confirmation, to Mark Klaiman, Assistant Regional Counsel, 75 Hawthorne Street, San Francisco, California 94105. Mr. Klaiman may be reached at (415) 744-1374.

Respectfully,

*Keith Takahashi*

*JW* Jeff Zelikson, Director  
Hazardous Waste Management Division

Enclosure

cc: Mark Klaiman, U.S. EPA, Office of Regional Counsel  
Phillip Ramsey, U.S. EPA  
Robert Ghirelli, California Regional Water Quality Control  
Board, Los Angeles  
Robert Walter, Chairperson, Puente Valley Steering Committee  
Richard Parker, GOE Engineering Co., Inc.

1 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
2 REGION 9

3 In the matter of: )  
4 San Gabriel Valley Superfund Sites, )  
5 Areas 1-4 )

6 RESPONDENTS: )

7 DuBois Chemical/Diversey Corp. )  
8 15010 E. Don Julian Road )  
9 City of Industry, CA 91749 )

U.S. EPA Docket  
No. 93-23

10 GOE Engineering, Co., Inc. )  
11 1425 S. Vineyard Avenue )  
12 Ontario, CA 91761 )

13 Proceeding Under Section 106(a) of the )  
14 Comprehensive Environmental Response, )  
15 Compensation, and Liability Act of 1980 )  
16 (42 U.S.C. § 9606(a)). )

17 UNILATERAL ADMINISTRATIVE ORDER FOR  
18 PARTIAL REMEDIAL INVESTIGATION  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# TABLE OF CONTENTS

I. AUTHORITY . . . . .	1
II. DEFINITIONS . . . . .	1
III. PARTIES BOUND . . . . .	2
IV. FINDINGS OF FACT . . . . .	3
V. CONCLUSIONS OF LAW . . . . .	9
VI. DETERMINATIONS . . . . .	9
VII. NOTICE TO THE STATE . . . . .	10
VIII. WORK TO BE PERFORMED . . . . .	10
X. OTHER APPLICABLE LAWS . . . . .	20
XI. RECORD PRESERVATION . . . . .	20
XII. DESIGNATED PROJECT MANAGERS . . . . .	21
XIII. MODIFICATION OF WORK REQUIRED . . . . .	22
XIV. SITE ACCESS . . . . .	23
XV. DELAY IN PERFORMANCE . . . . .	23
XVI. ENDANGERMENT AND EMERGENCY RESPONSE . . . . .	25
XVII. ASSURANCE OF ABILITY TO COMPLETE WORK . . . . .	25
XVIII. DISCLAIMER . . . . .	26
XIX. ENFORCEMENT AND RESERVATIONS . . . . .	27
XX. NOTICE OF INTENT TO COMPLY . . . . .	29
XXI. OPPORTUNITY TO CONFER . . . . .	29
XXII. SEVERABILITY . . . . .	31
XXIII. PENALTIES FOR NONCOMPLIANCE . . . . .	31
XXIV. EFFECTIVE DATE . . . . .	32
XXV. TERMINATION AND SATISFACTION . . . . .	32
ATTACHMENT . . . . .	i

1 I. AUTHORITY

2 This Administrative Order ("Order") is issued on this date  
3 pursuant to the authority vested in the President of the United  
4 States by Section 106(a) of the Comprehensive Environmental  
5 Response, Compensation, and Liability Act of 1980, 42 U.S.C. - - -  
6 §106(a), as amended by the Superfund Amendments and  
7 Reauthorization Act of 1986, Pub. L. 99-499 ("CERCLA"). The  
8 President delegated this authority to the Administrator of the  
9 United States Environmental Protection Agency ("EPA" or "Agency")  
10 by Executive Order 12580, January 23, 1987, 52 Fed. Reg. 2923,  
11 and further delegated it to the Assistant Administrator for Solid  
12 Waste and Emergency Response and the Regional Administrators by  
13 EPA Delegation Nos. 14-8-A and 14-14-C. This authority has been  
14 redelegated to the Director, Hazardous Waste Management Division,  
15 EPA, Region 9 ("Director") by Region 9 Delegations 1290.41 and  
16 1290.42.

17 II. DEFINITIONS

18 A. The San Gabriel Valley Superfund Sites, Areas 1-4 are  
19 located in suburban Los Angeles County in Southern California.  
20 There are four areas of groundwater contamination listed on the  
21 National Priorities List (San Gabriel Valley Areas 1-4).  
22 Included within the sites are significant portions of the cities  
23 of La Puente, City of Industry, Azusa, Baldwin Park, Irwindale,  
24 West Covina, El Monte, South El Monte, Monrovia, Arcadia,  
25 Rosemead, and Alhambra.

26 B. The San Gabriel Valley Area 4 Superfund Site was placed  
27 on the National Priorities List due to contamination of  
28 groundwater by tetrachloroethene ("PCE") and other organic

1 solvents. The San Gabriel Valley Area 4 Superfund Site includes  
2 an area of groundwater contamination located in the cities of La  
3 Puente, City of Industry and neighboring areas in Los Angeles  
4 County. The Respondents' Facilities are located in the San  
5 Gabriel Valley Area 4 Superfund Site.

6 C. The DuBois Chemical/Diversey Corp. Facility ("DuBois  
7 Facility") is the property located at 15010 E. Don Julian Road,  
8 City of Industry, California. DuBois Chemical/Diversey Corp.  
9 owns this property and has operated at this location since 1965.

10 D. The GOE Engineering Co., Inc. Facility ("GOE Facility")  
11 is the property located at 250 S. Ninth Avenue, City of Industry,  
12 California. GOE Engineering owned this property and operated at  
13 this location from approximately 1962 until 1985.

14 E. Respondents' facilities and every location at which  
15 work is being performed pursuant to this Order shall be referred  
16 to as the "Site" for the purposes of this Order.

17 F. "Day" means calendar day unless otherwise noted in this  
18 Order.

### 19 III. PARTIES BOUND

20 A. This Order shall apply to and be binding upon DuBois  
21 Chemical/Diversey Corp., a Delaware corporation ("DuBois"); and  
22 GOE Engineering Co., Inc., a California corporation ("GOE"),  
23 (collectively referred to as "Respondents"), their agents,  
24 successors and assigns. No change in ownership or operational  
25 status will alter Respondents' obligations under this Order.  
26 Respondents shall provide a copy of this Order to all  
27 contractors, subcontractors, laboratories, and consultants which  
28 are retained by Respondents to perform the work required by this

1 Order, within five (5) days after the Effective Date of this  
2 Order or within five (5) days of retaining their services.  
3 Notwithstanding the terms of any contract or agreement,  
4 Respondents are responsible for compliance with this Order and  
5 for ensuring that their employees, contractors, and agents comply  
6 with this Order.

7 B. Respondents shall not convey any title, easement, or  
8 other interest it may have in any property comprising the  
9 Respondents' respective Facilities, and Respondents shall not  
10 convey any interest in the corporation, without a provision  
11 permitting the continuous implementation of the provisions of  
12 this Order. Respondents shall provide a copy of this Order to  
13 any subsequent owner(s) or successor(s) before any ownership  
14 rights are transferred. Respondents shall advise EPA in advance  
15 of any anticipated transfer of interest.

16 IV. FINDINGS OF FACT

17 A. DuBois Chemicals

18 1. DuBois Chemicals has occupied the DuBois Facility  
19 since at least 1965. DuBois manufactures industrial cleaning  
20 products (85% liquid, 15% powder) at the DuBois Facility. Total  
21 annual sales reached 45 million pounds in 1990, about 35 million  
22 pounds were blended or packaged at the DuBois Facility.

23 2. DuBois historically repackaged or blended bulk  
24 methylene chloride, PCE and 1,1,1-trichloroethane ("TCA") to form  
25 products. Numerous other organic, e.g. alcohols and aromatic  
26 solvents, and inorganic chemicals are used in the facility.

27 3. Underground tank (UGT) removals in 1985 revealed  
28 soil contamination extending to the water table. In addition,

1 down-gradient monitoring wells showed near percentage level of  
2 dissolved products. Prior to their removal, the UGTs contained  
3 methylene chloride, isopropanol, Chevron 450 (an odorless  
4 kerosene), and No. 2 fuel oil. Soil samples collected beneath  
5 UGTs in 1985 contained up to 14% isopropanol, 3.8% Chevron 450 - -  
6 (kerosene), and 15 parts per million ("ppm") methylene chloride.

7 4. During the removal of the UGTs, 192 cubic yards of  
8 contaminated soil were excavated beneath UGTs down to water  
9 table. Backfilling was permitted by County to prevent direct  
10 exposure of the contaminated soils to precipitation.

11 5. In 1987, several borings were drilled in the  
12 previous UGT location and high ppm levels of Chevron 450 (up to  
13 9600 ppm), isopropanol (up to 1900 ppm), and acetone (up to 310  
14 ppm) were found down to 16' below ground surface (bgs).

15 6. In 1990, soil samples collected from three 10'  
16 borings near the northern aboveground tank farm showed volatile  
17 organic compounds ("VOCs") contamination by 1,1-dichloroethane  
18 (1,1-DCA) (63-420 ppb), TCA (7 - 3,000 ppb), 1,1-dichloroethene  
19 (1,1-DCE) (5-83 ppb). In addition, three borings stepping out  
20 from the former UGT location showed contamination by "mineral  
21 spirits" (up to 200 ppm). One such boring, BH6, had a continuous  
22 track of 1,1-DCA from near surface to 26' bgs (9-29 ppb).

23 7. In 1991, as part of a property transaction,  
24 several shallow soil samples were collected inside a building at  
25 the DuBois Facility. These samples, taken at the liquid chemical  
26 mixing area, showed high concentrations of methylene chloride  
27 (390 - 35,000 ppb), PCE (26 - 6,900 ppb), Freon 113 (7,000 -  
28 11,000 ppb), TCA (up to 13,000 ppb), and dichlorobenzene isomers



1 (up to 130,000 ppb). In addition, high ppm levels of other  
2 petroleum hydrocarbons were also identified in these samples.

3 8. Later in the same year, 11 borings were drilled,  
4 and ppm or near ppm levels of TCA, 1,1-DCA, and 1,1-DCE and lower  
5 concentrations of other VOCs, including PCE, trichloroethene  
6 ("TCE"), acetone and methylene chloride were found. VOCs were  
7 detected from near surface to 20' bgs.

8 9. A piezometer (PZ1) installed in 1991 in the  
9 chemical mixing area detected TCA, 1,1-DCA, 1,1-DCE, 1,2-DCE,  
10 PCE, 1,2-DCA and 1,2-dichloropropane detected virtually  
11 continuously to water table.

12 10. A soil gas investigation in 1991 revealed  
13 thousands of ug/L of TCA, 1,1-DCA, and 1,1-DCE in the northern  
14 tank farm, chemical mixing area, and southern tank farm.

15 11. Three PVC groundwater monitoring wells were  
16 installed in 1985 for UGT monitoring. Samples taken on August 24,  
17 1985, from MW1, located immediately down-gradient of the UGTs,  
18 detected 12,000 ppm of isopropanol, 8 ppm of methylene chloride,  
19 14 ppm of Chevron 450, and 12 ppm of acetone (a probable  
20 oxidation product of isopropanol). Other VOCs detected in MW1  
21 during August 1985 include: 400 ppb toluene; 62 ppb naphthalene;  
22 and 10-23 ppb of two phthalate compounds. These last two  
23 compounds are common plastic ingredients which were probably  
24 dissolved from the monitoring wells' PVC casing and screen by the  
25 high organic solvent content in groundwater.

26 12. MW2, located down-gradient from the DuBois  
27 Facility building, detected chlorinated VOCs including 150 ppb of  
28 1,1-DCE, 38 ppb of TCA, 22 ppb of t-1,2-DCE, 89 ppb of 1,1-DCA,

1 24 ppb of 1,2-DCA, as well as other VOCs.

2 13. In 1987, 5 additional monitoring wells were  
3 installed at the DuBois Facility. One of these new wells, (MW5),  
4 was to replace MW1 which was apparently damaged and subsequently  
5 abandoned. In 1990, two additional wells were installed (MW9 and --  
6 MW10).

7 14. In 1991, 5 piezometers were installed to ascertain  
8 the groundwater flow direction. PZ1 installed in the chemical  
9 mixing area showed 3,200 ppb of TCA, 520 ppb of 1,1-DCE, and 750  
10 ppb of 1,1-DCA, among others. Water quality data consistently  
11 showed high levels of VOC contamination in all the monitoring  
12 wells. The most contaminated well in the earliest stage was MW1.  
13 MW5 (MW1 replacement) consistently had high concentrations of  
14 both chlorinated VOCs (>100 ppb 1,2-DCE and 1,1-DCA, 40-70 ppb  
15 1,1-DCE, up to 9.5 ppb of vinyl chloride), isopropanol, and  
16 acetone. MW6, down-gradient of MW5, showed thousands of ppm of  
17 isopropanol and acetone in 1987-88, but was dry from 1989 until  
18 1993. When last sampled in January 1993, MW6 had 5,000 ppb of  
19 isopropanol. MW8 on the north side of the building saw an  
20 increase in contaminant concentrations of TCA (1,200 ppb max.),  
21 1,1-DCE (1,300 ppb max.), and 1,1-DCA (135 ppb max.) from 1989 to  
22 1991/1992. MW2, generally the most down-gradient well, has  
23 consistently detected, PCE (3.3-28 ppb), TCE (3.1-33 ppb), TCA  
24 (13-66.5 ppb), 1,1-DCE (5-530 ppb), 1,2-DCE (2-100 ppb), 1,1-DCA  
25 (34-333 ppb), 1,2-DCA (ND-62 ppb), vinyl chloride was found in  
26 the most recent two quarters (1.8-1.9 ppb). The up-gradient  
27 well, MW3, has always been "clean", 10 out of 16 samples showed  
28 all ND, no more than three VOCs were detected in any single

1 sample, and the concentrations were all below 5.2 ppb. These up-  
2 gradient results confirm DuBois Chemical's impact to groundwater.

3 15. DuBois received Notice of Potential Liability  
4 ("General Notice) for the San Gabriel Valley Superfund Sites,  
5 Areas 1-4, on May 7, 1990. DuBois was issued Special Notice for --  
6 the Puente Valley RI/FS on May 26, 1993 and was received on June  
7 1, 1993 (Certified Mail Receipt No. P 104 938 520). Pursuant to  
8 the Special Notice, a Good Faith Offer to complete the tasks set  
9 forth in the Special Notice was due on or before August 1, 1993.  
10 DuBois has failed to submit a Good Faith Offer.

11 B. GOE Engineering

12 1. GOE owned the property and operated a machine shop  
13 at 250 S. 9th Avenue, City of Industry from approximately 1970  
14 until 1985. The property was purchased in 1985 from Robert Relly  
15 and Kenneth Jacobson (the original officers of GOE) by the  
16 current owners, Messrs. Schultz and Poltorak.

17 2. Despite repeated efforts by EPA, GOE has only  
18 provided extremely limited information on the facility. EPA has  
19 notified GOE that its response to EPA's 104(e) Information  
20 Request is incomplete. Requests by EPA to GOE for additional  
21 information have gone unfulfilled. The failure of GOE to provide  
22 information has forced EPA to rely on other sources of  
23 information, including information provided by the current  
24 property owners, tenant (Physicians Formula Cosmetics), and local  
25 regulatory agency files.

26 3. Physicians Formula Cosmetics has been responsive  
27 to the Los Angeles Regional Water Quality Control Board ("RWQCB")  
28 regarding subsurface investigations at 230 and 250 S. 9th Avenue

1 locations, and has generated and continues to generate additional  
2 subsurface soil, soil gas, and groundwater data. An initial  
3 soils investigation report detailed the installation of three  
4 groundwater monitoring wells, which included one monitoring well  
5 at the rear of the former GOE facility. This well was  
6 constructed adjacent to concrete pad, thought to be a former  
7 underground storage tank ("UST") location.

8           4. Limited documents provided by Mr. Relly on behalf  
9 of GOE indicated that four (4) USTs were removed in 1987,  
10 however, personal communications with L.A. County, Dept. Public  
11 Works through RWQCB indicated no sampling was required, based on  
12 indications that the tanks contained "oil". Soil sampling  
13 results during the installation of a monitoring well, MW2, in  
14 1991, indicate a track of PCE to groundwater, with PCE detected  
15 in soils up to 11,000 ppb and with elevated concentrations  
16 detected in initial groundwater samples ranging from 1,800 -  
17 2,800 ppb. These results indicate that it is extremely likely  
18 that one or more UST contained PCE.

19           5. RWQCB staff have contacted L.A. County Fire Dept.,  
20 Hazardous Materials Control Program, and have been informed by  
21 the County that GOE has documented PCE usage at the facility.  
22 Specifically, a County Inspection Report dated June 8, 1983,  
23 indicates Stoddard solvent, PCE and cutting oil storage and  
24 usage. A PCE use rate of 972 gal/6 months was indicated on the  
25 report.

26           6. GOE received Notice of Potential Liability  
27 ("General Notice) for the San Gabriel Valley Superfund Sites,  
28 Areas 1-4, on May 14, 1990. GOE was issued Special Notice for

1 the Puente Valley RI/FS on May 26, 1993. Pursuant to this  
2 Special Notice, a Good Faith Offer to complete the tasks set  
3 forth in the Special Notice was due on or before August 1, 1990.  
4 GOE has failed to submit a Good Faith Offer.

5 V. CONCLUSIONS OF LAW

6 A. Each Respondents' site is a "facility" as defined in  
7 Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

8 B. Each Respondent is a "person" as defined in Section  
9 101(21) of CERCLA, 42 U.S.C. §9601(21).

10 C. Analyses of samples collected during past  
11 investigations at each Respondents' facility indicate the  
12 presence of PCE. In addition, high levels of 1,1-DCA are present  
13 at the DuBois facility; and high levels of PCE are present at the  
14 GOE facility. These substances are "hazardous substances" as  
15 defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

16 D. The past, present, and potential migration of hazardous  
17 substances from Respondents' facilities constitutes an actual or  
18 threatened "release" as defined in Section 101(22) of CERCLA, 42  
19 U.S.C. §9601(22).

20 E. Respondents either own or operate a facility where  
21 hazardous substances have come to be located. Respondents are  
22 potentially responsible parties as defined in Section 107(a) of  
23 CERCLA, 42 U.S.C. §9607(a).

24 VI. DETERMINATIONS

25 A. The Director has determined that an actual or  
26 threatened release of hazardous substances from the Respondents'  
27 facilities may present an imminent and substantial endangerment  
28 to the public health or welfare or the environment.

1 B. The actions required by this Order are necessary to  
2 protect the public health, welfare and the environment.

3 C. If performed satisfactorily, the actions required by  
4 this Order are consistent with the National Contingency Plan, 40  
5 C.F.R. Part 300 ("NCP").

6 VII. NOTICE TO THE STATE

7 Pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a),  
8 EPA has notified the State of California of the issuance of this  
9 Order by providing the Regional Board and California Department  
10 of Toxic Substances Control a copy of this Order.

11 VIII. WORK TO BE PERFORMED

12 A. General Provisions

13 1. All work shall be conducted in accordance with:  
14 CERCLA; the NCP; EPA "Guidance for Conducting Remedial Investiga-  
15 tions and Feasibility Studies Under CERCLA" (EPA, October 1988);  
16 "Preparation of a U.S. EPA Region 9 Field Sampling Plan for  
17 Private and State-Lead Superfund Projects (EPA, April 1990); U.S.  
18 EPA Region 9 Guidance for Preparing Quality Assurance Project  
19 Plans for Superfund Remedial Projects" (EPA, November 1992); any  
20 final amended or superseding versions of such documents provided  
21 by EPA; other applicable EPA guidance documents; and any report,  
22 document or deliverable prepared by EPA because Respondent fails  
23 to comply with this Order.

24 2. All plans, schedules, and other reports that  
25 require EPA's approval and are submitted by Respondents pursuant  
26 to this Order are incorporated into this Order upon approval by  
27 EPA.

28 \ \ \ \

1           3. All work performed by or on behalf of Respondents  
2 pursuant to this Order shall be performed by qualified  
3 individuals and/or contractors with expertise in hazardous waste  
4 site investigation. The qualifications of the persons,  
5 contractors, and subcontractors undertaking the work for  
6 Respondent shall be subject to EPA review.

7           4. EPA will oversee Respondents' activities as  
8 specified in Section 104(a)(1) of CERCLA Section, 42 U.S.C.  
9 §9604(a)(1). Respondents will support EPA's initiation and  
10 conduct of activities carried out in its oversight  
11 responsibilities.

12           5. To provide quality assurance, maintain quality  
13 control, and satisfy chain of custody requirements, Respondents  
14 shall: (a) use a laboratory which has a documented Quality As-  
15 surance Program that complies with EPA guidance (EPA, September  
16 1989); and (b) ensure that the laboratory used by Respondents for  
17 analysis performs such analyses according to a method or methods  
18 approved by EPA in the Field Sampling Plan and/or Quality  
19 Assurance Project Plan to be submitted by Respondents.

20           B. Work and Deliverables

21           1. Based on the Findings of Fact, Conclusions of Law,  
22 and Determinations, EPA hereby orders Respondents to perform the  
23 following work under the direction of the EPA's Remedial Project  
24 Manager, and to comply with all the requirements of this Order.  
25 Respondents will furnish all personnel, materials, and services  
26 needed, or incidental to, performing the Investigation, except as  
27 otherwise specified in the Order.

28 \ \ \ \

1           2.     Respondent shall initiate activities necessary to  
2 satisfy the following objectives: install and sample monitoring  
3 well cluster MW6-3, as detailed in EPA's April 8, 1993, Puente  
4 Valley Operable Unit Inter RI/FS Statement of Work (SOW), a copy  
5 of which was issued to Respondents as attachments to the May 26, --  
6 1993 Special Notice. DuBois received Special Notice on June 1,  
7 1993 (Certified Mail Receipt No. P104 938 520) and GOE received  
8 Special Notice on May 28, 1993 (Certified Mail Receipt No. P 104  
9 938 525). The well cluster shall extend to the base of the  
10 alluvial aquifer (estimated to be between 800 and 1,000 feet  
11 deep). Field procedure for the installation of the well cluster,  
12 collection of soil and groundwater samples, and lithologic and  
13 geophysical logging shall comply with above referenced EPA  
14 guidance documents and the SOW. Respondents will be required to  
15 conduct a minimum of one pumping test. Additional aquifer tests  
16 (either pumping or slug tests) may be required to supplement  
17 aquifer data for MW6-3. Water levels shall be measured monthly  
18 for 1 year. After the first year, the schedule will be  
19 reevaluated based on the monitoring results. Specific soil  
20 sampling requirements and groundwater sampling frequencies  
21 detailed in the SOW may be modified as a result of ongoing  
22 negotiations with the Puente Valley Steering Committee. EPA will  
23 notify Respondents of any sampling modifications.

24           3.     Respondents will maintain field and laboratory  
25 records and reports, including field logs, sample shipment  
26 records, analytical results, and quality assurance reports, to  
27 ensure that only validated analytical data are reported to and  
28 utilized by EPA. Field logs must be utilized to document



1 observations, measurements, and significant events that occur  
2 during field activities. Laboratory reports must document sample  
3 custody, analytical responsibility, analytical results, adherence  
4 to prescribed protocols, nonconformity events, corrective  
5 measures, and/or data deficiencies. In addition, Respondent will  
6 establish a data security system to safeguard chain-of-custody  
7 forms and other project records to prevent loss, damage, or  
8 alteration of project documentation.

9           4. Respondents will: (a) provide notification to EPA  
10 as described below; (b) prepare a Field Sampling Plan ("FSP");  
11 (c) prepare a Quality Assurance Project Plan ("QAPP"); (d)  
12 prepare a Health & Safety Plan; and (e) prepare a final Remedial  
13 Investigation Report. These documents and actions are necessary  
14 to ensure that sample collection and analytical activities are  
15 conducted in accordance with technically acceptable protocols,  
16 that data quality objectives are established and met, and to  
17 otherwise meet the requirements of this Order. The Field  
18 Sampling Plan, Quality Assurance/Quality Control Plan, and Health  
19 and Safety Plan may be submitted separately or as a single  
20 document. These tasks are described below.

21           5. Respondents shall notify EPA in writing of the  
22 name, title and qualifications of the individual(s) who will be  
23 responsible for carrying out the terms of this Order, and the  
24 name(s) of all contractors or subcontractors. Notification will  
25 be provided within fourteen (14) days after the Effective Date of  
26 this Order.

27           6. If EPA disapproves in writing of any person's or  
28 contractor's technical and/or experience qualifications, EPA will

1 | notify Respondents in writing, and Respondents shall subsequently  
2 | notify EPA within fourteen (14) days of Respondents' receipt of  
3 | EPA's written notice, of the identity and qualifications of the  
4 | replacement(s). A subsequent EPA disapproval of the  
5 | replacement(s) shall be deemed a failure to comply with the - - -  
6 | Order.

7 |           7. Subsequent to approval by EPA of the individuals,  
8 | contractors, or subcontractors who will be responsible for the  
9 | investigation, Respondents may propose that different  
10 | individuals, contractors and/or subcontractors direct and  
11 | supervise the work required by this Order. If Respondents wish  
12 | to propose such a change, Respondents shall notify EPA in writing  
13 | of the name, title, and qualifications of the proposed in-  
14 | dividuals and the names of proposed contractors and/or sub-  
15 | contractors. Any such individual, contractors and/or sub-  
16 | contractors shall be subject to approval by EPA. EPA shall give  
17 | Respondents its approval or disapproval within fourteen (14) days  
18 | of receiving from Respondents the information required by this  
19 | paragraph. The naming of any replacement(s) by Respondents shall  
20 | not relieve Respondents of any of its obligations to perform the  
21 | work required by this Order. A subsequent EPA disapproval of the  
22 | replacement(s) shall be deemed a failure to comply with the  
23 | Order.

24 |           8. Respondents shall prepare a Field Sampling Plan  
25 | ("Sampling Plan") in accordance with EPA guidelines (EPA, April  
26 | 1990). It will include:

27 |                   (a) a detailed list of tasks to be performed to  
28 | fulfill the requirements of this Order; and

(b) a description of sampling objectives; sample location and frequency including quality control samples, sampling equipment and methodologies; sample handling and analysis; and other aspects of the work to be performed. (Where appropriate, Respondents shall use the protocols and analytical methods addressed in documents included in the Attachment.

9. Respondents may cite relevant portions of these documents in the Field Sampling Plan and Quality Assurance Project Plan. Respondents shall evaluate and incorporate into the Field Sampling Plan and/or Quality Assurance Project Plan any necessary protocols and analytical methods that are not addressed in documents included in the Attachment.

10. The Draft Sampling Plan is due 30 days after the Effective Date of this Order. The Final Sampling Plan is due 15 days after Respondent has received EPA comments on the Draft Sampling Plan. EPA must review and approve the Sampling Plan and Quality Assurance Project Plan before any field activity is initiated.

11. Respondents shall prepare a Quality Assurance Project Plan in accordance with EPA guidelines (EPA, September 1989). It will include (to the extent not included in the Field Sampling Plan):

(a) a description of data quality objectives;

(b) a description of method(s) used in the investigation to document and record compliance with field and laboratory procedures (e.g., field logs, laboratory reports);

(c) information sufficient to demonstrate, to EPA's satisfaction, that each laboratory used by Respondents is

1 qualified to conduct the proposed work (e.g., ability to meet  
2 required detection and quantification limits for chemicals of  
3 concern in the media of interest);

4 (d) if the selected laboratory does not  
5 participate in EPA's Contract Laboratory Program ("CLP"),  
6 Respondents must submit documentation to demonstrate that the  
7 laboratory uses methods consistent with CLP methods and quality  
8 assurance requirements (e.g., detailed information to demonstrate  
9 the adequacy of the laboratory's quality assurance program;  
10 information on personnel qualifications, equipment and material  
11 specifications);

12 (e) assurances that EPA has access to laboratory  
13 personnel, equipment and records; and

14 (f) other aspects of quality assurance not  
15 addressed in the Field Sampling Plan.

16 12. Respondents may reference, rather than repeat,  
17 information contained in the Field Sampling Plan or in documents  
18 listed in the Attachment if the necessary techniques, protocols  
19 and quality assurance procedures are already described in those  
20 documents.

21 13. The Draft Quality Assurance Project Plan is due 30  
22 days after the Effective Date of this Order. The Final Quality  
23 Assurance Project Plan is due 15 days after Respondent has  
24 received EPA comments on the Draft Quality Assurance Project  
25 Plan. EPA must review and approve the Sampling Plan and Quality  
26 Assurance Project Plan before any field activity is initiated.

27 14. Respondents shall prepare a Health and Safety Plan  
28 in conformance with Respondent's health and safety program, and

1 in compliance with Occupational Safety & Health Act ("OSHA")  
2 regulations and protocols. The Health and Safety Plan will  
3 include the eleven (11) elements described in EPA Guidance (EPA,  
4 October 1988), such as a health and safety risk analysis, a  
5 description of monitoring and personal protective equipment, and  
6 medical monitoring.

7 15. The Health & Safety Plan is due 30 days after the  
8 Effective Date of this Order.

9 16. Respondents will notify EPA of planned dates for  
10 field activities at least one week before initiating sampling so  
11 that EPA may adequately schedule oversight tasks.

12 17. Respondents will notify EPA in writing upon  
13 completion of field activities.

14 18. After completing field sampling and analysis,  
15 Respondents will prepare a draft Remedial Investigation report  
16 describing the results of the remedial investigation. EPA  
17 guidance (EPA, October 1988) provides an outline of the report  
18 format and contents. It should:

19 (a) include a review of all investigative  
20 activities that have taken place;

21 (b) describe and display data which document the  
22 vertical stratigraphy encountered and vertical extent of  
23 contamination at monitoring well cluster MW6-3;

24 (c) demonstrate that quality assurance  
25 requirements approved by EPA and specified in the Field Sampling  
26 Plan and Quality Assurance Project Plan are met; and

27 (d) include as appendices a summary of all  
28 validated data, field logs, chain of custody forms, and any other

1 information used to document the findings of the remedial  
2 investigation.

3 19. The Draft Report is due to EPA 45 days after the  
4 field work is completed. Respondents will prepare a final  
5 Remedial Investigation report which satisfactorily addresses  
6 EPA's comments within 21 days after Respondent receives EPA  
7 comments on the Draft Report.

8 20. With the exception of the Health & Safety Plan,  
9 EPA shall review, comment, and approve or disapprove each plan,  
10 report, or other deliverable submitted by Respondents. All EPA  
11 comments on draft deliverables shall be incorporated by  
12 Respondents. EPA intends to review all plans, reports, or other  
13 deliverables within thirty (30) days of receipt of each document.  
14 EPA shall notify Respondents in writing of EPA's approval or  
15 disapproval of a final deliverable or if EPA requires additional  
16 review time. In the event of any disapproval, EPA shall specify  
17 the reasons for such disapproval, EPA's required modifications,  
18 and a time frame for submission of the revised report, document,  
19 or deliverable. If the modified report, document or deliverable  
20 is again disapproved by EPA, EPA shall first notify Respondents  
21 and then may draft its own report, document or deliverable and  
22 incorporate it as part of this Order, and/or seek penalties from  
23 Respondents for failing to comply with this Order, and/or conduct  
24 the remaining work required by this Order.

25 21. All documents, including technical reports, and  
26 other correspondence to be submitted by Respondents pursuant to  
27 this Order, shall be sent by U.S. mail to the following  
28 addressees or to such other addressees as EPA hereafter may

designate in writing, and shall be deemed submitted on the date received by EPA. Respondents shall submit three (3) copies of each document to EPA, one copy to the Regional Board, and one copy to Department of Toxic Substances Control.

22. The three copies of each document to be submitted to EPA shall be sent to:

Phillip Ramsey  
Remedial Project Manager (H-6-5)  
Hazardous Waste Management Division  
U.S. EPA, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105  
Phone: (415) 744-2258

One copy shall be sent to:

Dr. Robert Ghirelli  
California Regional Water Quality Control Board  
101 Centre Plaza Drive  
Monterey Park, CA 91754

One copy shall be sent to:

Mike Sorenson  
California Department of Toxic Substances Control  
P.O. Box 942732  
Sacramento, CA 94234-7320

23. Field work shall begin no later than thirty (30) days after EPA has approved the Field Sampling Plan and Quality Assurance Project Plan.

#### IX. SAMPLING, ACCESS, AND DATA/DOCUMENT AVAILABILITY

A. At the request of EPA, Respondents shall provide to EPA and/or its authorized representatives split samples or duplicates of samples collected by Respondents as part of the investigation.

B. Nothing in this Order shall be interpreted as limiting EPA's inspection or information-gathering authority under federal law.

1 C. EPA personnel and/or EPA authorized representatives  
2 shall be allowed access to the laboratory and personnel used by  
3 Respondent for laboratory analyses.

4 D. For purposes of this Order, EPA's authorized  
5 representatives shall include, but not be limited to, staff of - -  
6 the Regional Board, Department of Toxic Substances Control, and  
7 consultants and contractors hired by EPA to oversee activities  
8 required by this Order.

9 X. OTHER APPLICABLE LAWS

10 A. Respondents shall undertake all actions required by  
11 this Order in accordance with the requirements of all applicable  
12 local, state, and federal laws and regulations unless an  
13 exemption from such requirements is specifically provided under  
14 CERCLA or unless Respondents obtains a variance or exemption from  
15 the appropriate governmental authority.

16 B. Any materials removed from the Site shall be disposed  
17 of or treated at a facility in accordance with Section 121(d)(3)  
18 of CERCLA, 42 U.S.C. §9621(d)(3), EPA's Revised Off-Site Policy,  
19 and all other applicable Federal, State and local requirments.

20 XI. RECORD PRESERVATION

21 Respondents shall maintain, during the pendency of this  
22 Order and for a minimum of twenty (20) years after EPA provides  
23 notice to Respondents that the work has been completed, a central  
24 depository of the records and documents required to be prepared  
25 under this Order. In addition, Respondents shall retain copies  
26 of the most recent version of all documents that relate to  
27 hazardous substances at the Site and that are in its possession  
28 or in the possession of its employees, agents, contractors, or



1 attorneys. After this twenty year period, Respondents shall  
2 notify EPA at least thirty (30) days before the documents are  
3 scheduled to be destroyed. If EPA so requests, Respondents shall  
4 provide these documents to EPA.

5 XII. DESIGNATED PROJECT MANAGERS

6 A. EPA designates Phillip Ramsey, an employee of Region 9  
7 of EPA, as its Remedial Project Manager ("RPM") who shall have  
8 the authorities, duties, and responsibilities vested in the RPM  
9 by the NCP. Within fifteen (15) days of the Effective Date of  
10 this Order, Respondent shall designate a Project Coordinator who  
11 shall be responsible for overseeing Respondents' implementation  
12 of this Order. The EPA RPM will be EPA's designated  
13 representative at the facility. To the maximum extent possible,  
14 all oral communications between Respondents and EPA concerning  
15 the activities performed pursuant to this Order shall be directed  
16 through EPA's RPM and Respondents' Project Coordinator. All  
17 documents, including progress and technical reports, approvals,  
18 and other correspondence concerning the activities performed  
19 pursuant to the terms and conditions of this Order, shall be  
20 delivered in accordance with Paragraph VIII B.22.

21 B. EPA and Respondents may change their respective RPM and  
22 Project Coordinator. Such a change shall be accomplished by  
23 notifying the other party in writing at least seven (7) days  
24 prior to the change except in the case of an emergency, in which  
25 case notification shall be made orally followed by written  
26 notification as soon as possible.

27 C. Consistent with the provisions of this Order, the EPA  
28 RPM shall also have the authority vested in the On-Scene

Coordinator ("OSC") by the NCP, unless EPA designates a separate individual as OSC, who shall then have such authority. This includes, but is not limited to, the authority to halt, modify, conduct, or direct any tasks required by this Order and/or undertake any response actions (or portions of the response action) when conditions present or may present a threat to public health or welfare or the environment as set forth in the NCP.

D. The absence of the EPA RPM or the OSC from the Site shall not be cause for the stoppage of work. Nothing in this Order shall limit the authority of the EPA RPM or OSC under federal law.

#### XIII. MODIFICATION OF WORK REQUIRED

A. In the event of unanticipated or changed circumstances at the facility, Respondents shall notify the EPA RPM by telephone within twenty-four (24) hours of discovery of the new or changed circumstances. This verbal notification shall be followed by written notification postmarked within three (3) days of discovery of the new or changed circumstances.

B. The Director may determine that in addition to tasks addressed herein, additional work may be required. Where consistent with Section 106(a) of CERCLA, the Director may direct as an amendment to this Order that Respondents perform these response actions in addition to those required herein by any plan. Respondents shall implement the additional tasks which the Director identifies. The additional work shall be completed according to the standards, specifications, and schedules set forth by the Director.

\ \ \ \

1 XIV. SITE ACCESS

2 A. Respondents shall permit EPA and its authorized  
3 representatives to have access at all times to the Site to  
4 monitor any activity conducted pursuant to this Order to conduct  
5 such tests or investigations as EPA deems necessary. Nothing in  
6 this Order shall be deemed a limit upon EPA's authority under  
7 federal law to gain access to the Site.

8 B. To the extent that Respondents requires access to land  
9 other than land it owns in carrying out the terms of this Order,  
10 Respondents shall, within forty-five (45) days of the Effective  
11 Date of this Order, obtain access for EPA, its contractors and  
12 oversight officials; state oversight officials and state contrac-  
13 tors; and Respondents or its authorized representatives. If  
14 Respondents fails to gain access within forty-five (45) days, it  
15 shall continue to use best efforts to obtain access until access  
16 is granted. For purposes of this paragraph, "best efforts" in-  
17 cludes but is not limited to, seeking judicial assistance and the  
18 payment of money as consideration for access. If access is not  
19 provided within the time referenced above, EPA may obtain access  
20 under Sections 104(e) or 106(a) of CERCLA.

21 XV. DELAY IN PERFORMANCE

22 A. Any delay in performance of this Order that, in the  
23 EPA's judgment, is not properly justified by Respondents under  
24 the terms of this Section shall be considered a violation of this  
25 Order. Any delay in performance of this Order shall not affect  
26 Respondents' obligations to fully perform all obligations under  
27 the terms and conditions of this Order.

28 \ \ \ \

1        B.    Respondents shall notify EPA of any delay or  
2 anticipated delay in performing any requirement of this Order.  
3 Such notification shall be made by telephone to EPA's RPM within  
4 twenty-four (24) hours after Respondents first knew or should  
5 have known that a delay might occur. Respondents shall adopt all --  
6 reasonable measures to avoid or minimize any such delay. Within  
7 three (3) days after notifying EPA by telephone, Respondents  
8 shall provide written notification fully describing the nature of  
9 the delay, any justification for delay, any reason why  
10 Respondents should not be held strictly accountable for failing  
11 to comply with any relevant requirements of this Order, the  
12 measures planned and taken to minimize the delay, and a schedule  
13 for implementing the measures that will be taken to mitigate the  
14 effect of the delay. Increased costs or expenses associated with  
15 implementation of the activities called for in this Order are not  
16 justifications for any delay in performance.

17        C.    If Respondents are unable to perform any activity or  
18 submit any document within the time required under this Order,  
19 Respondents may, prior to the expiration of the time, request an  
20 extension of time in writing. The extension request shall in-  
21 clude a justification for the delay. Submission of an extension  
22 request shall not affect Respondents' obligation to comply with  
23 the requirements of this Order.

24        D.    If EPA determines that good cause exists for an  
25 extension of time, it may grant a request made pursuant to  
26 Subparagraph C, above, and specify in writing a new schedule for  
27 completion of the activity and/or submission of the document.

28    \ \ \ \

1 XVI. ENDANGERMENT AND EMERGENCY RESPONSE

2 A. In the event of any action or occurrence during the  
3 performance of the work which causes or threatens to cause a  
4 release of a hazardous substance or which may present an im-  
5 mediate threat to public health or welfare or the environment, - - -  
6 Respondents shall immediately take all appropriate action to  
7 prevent, abate, or minimize the threat, and shall immediately  
8 notify EPA's RPM, or, if the RPM is unavailable, EPA's OSC. If  
9 neither of these persons is available, Respondents shall notify  
10 the EPA Emergency Response Unit, Region 9, phone number (415)  
11 744- 2000. Respondents shall take such action in consultation  
12 with EPA's RPM and in accordance with all applicable provisions  
13 of this Order, including but not limited to the Health and Safety  
14 Plan.

15 B. Nothing in the preceding paragraph shall be deemed to  
16 limit any authority of the United States to take, direct, or or-  
17 der all appropriate action to protect human health and the en-  
18 vironment or to prevent, abate, or minimize an actual or  
19 threatened release of hazardous substances on, at, the Site.

20 XVII. ASSURANCE OF ABILITY TO COMPLETE WORK

21 A. Respondents shall demonstrate their ability to complete  
22 the work required by this Order and to pay all claims that arise  
23 from the performance of the work by obtaining and presenting to  
24 EPA within thirty (30) days after approval of the Field Sampling  
25 and Quality Assurance Project Plans, one of the following: (1) a  
26 performance bond; (2) a letter of credit; (3) a guarantee by a  
27 third party; or (4) internal financial information to allow EPA  
28 to determine that Respondents have sufficient assets available to

1 perform the work. Respondents shall demonstrate financial  
2 assurance in an amount no less than the estimate of cost for the  
3 remedial investigation. If Respondents seek to demonstrate  
4 ability to complete the remedial investigation by means of  
5 internal financial information, or by guarantee of a third party, --  
6 Respondents shall re-submit such information every six months  
7 from the Effective Date of this Order. If EPA determines that  
8 such financial information is inadequate, Respondents shall,  
9 within fifteen (15) days after receipt of EPA's notice of  
10 determination, obtain and present to EPA for approval on the  
11 other forms of financial assurance listed above.

12 B. At least seven (7) days prior to commencing any work at  
13 the Site pursuant to this Order, Respondents shall submit to EPA  
14 a certification that Respondents or its contractors and sub-  
15 contractors have adequate insurance coverage or has indemnifica-  
16 tion for liabilities for injuries or damages to persons or  
17 property which may result from the activities to be conducted by  
18 or on behalf of Respondents pursuant to this Order. Respondents  
19 shall ensure that such insurance or indemnification is maintained  
20 for the duration of performance of the work required by this  
21 Order.

#### 22 XVIII.DISCLAIMER

23 The United States, by issuance of this Order, assumes no  
24 liability for any injuries or damages to persons or property  
25 resulting from acts or omissions by Respondents, or its  
26 employees, agents, successors, assigns, contractors, or  
27 consultants in carrying out any action or activity pursuant to  
28 this Order. Neither EPA nor the United States shall be held as a

1 party to any contract entered into by Respondents, or its  
2 employees, agents, successors, assigns, contractors, or  
3 consultants in carrying out any action or activity pursuant to  
4 this Order.

5 XIX. ENFORCEMENT AND RESERVATIONS

6 A. EPA reserves the right to bring an action against  
7 Respondents, or any individual Respondent, under Section 107 of  
8 CERCLA, 42 U.S.C. §9607, for recovery of any response costs  
9 incurred by the United States related to this Order and not  
10 reimbursed by Respondents. This reservation shall include but  
11 not be limited to past costs, direct costs, indirect costs, the  
12 costs of oversight, the costs of compiling the cost documentation  
13 to support oversight cost demand, as well as accrued interest as  
14 provided in Section 107(a) of CERCLA, 42 U.S.C. §9607.

15 B. Notwithstanding any other provision of this Order, at  
16 any time during the response action, EPA may perform its own  
17 studies, complete the response action (or any portion of this  
18 response action) and seek reimbursement from Respondents for its  
19 costs, or seek any other appropriate relief.

20 C. Nothing in this Order shall preclude EPA from taking  
21 any additional enforcement action, including modification of this  
22 Order or issuance of additional Orders, and/or additional  
23 remedial or removal actions as EPA may deem necessary, or from  
24 requiring Respondents, or any individual Respondent, in the  
25 future to perform additional activities pursuant to CERCLA, 42  
26 U.S.C. §9607(a), et seq., or any other applicable law.  
27 Respondents shall be liable under CERCLA Section 107(a), 42  
28 U.S.C. §9607(a), for the costs of any such additional actions.

1 D. Notwithstanding any provision of this Order, the United  
2 States hereby retains all of its information gathering, inspec-  
3 tion and enforcement authorities and rights under CERCLA, the  
4 Resource Conservation and Recovery Act, or any other applicable  
5 statutes or regulations.

6 E. Respondents, and each individual Respondent, shall be  
7 subject to civil penalties under Section 106(b) of CERCLA, 42  
8 U.S.C. §9606(b), of not more than \$25,000 for each day in which  
9 Respondents willfully violates or fails to comply with the  
10 requirements of this Order. In addition, failure to take  
11 response action in compliance with this Order, or any portion  
12 hereof, without sufficient cause, may result in liability under  
13 Section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3), for punitive  
14 damages in an amount at least equal to, and not more than three  
15 (3) times the amount of any costs incurred by the Hazardous  
16 Substance Superfund, as a result of such failure to comply.

17 F. Notwithstanding compliance with the terms of this  
18 Order, including the completion of an EPA-approved remedial  
19 investigation, Respondents are not released from liability, if  
20 any, for any enforcement actions beyond the terms of this Order  
21 taken by EPA.

22 G. EPA reserves the right to take any enforcement action  
23 pursuant to CERCLA and/or any other legal authority, including  
24 the right to seek injunctive relief, monetary penalties, rein-  
25 bursement of response costs, and punitive damages for any viola-  
26 tion of law or this Order.

27 H. EPA expressly reserves all rights and defenses that it  
28 may have, including the EPA's right both to disapprove of work



1 performed by Respondents and to request that Respondents perform  
2 tasks in addition to those detailed in this Order, as provided in  
3 Section VIII (Work to be Performed) of this Order. EPA reserves  
4 the right to undertake removal actions and/or remedial actions at  
5 any time. EPA reserves the right to seek reimbursement from  
6 Respondents for the costs incurred by the United States in  
7 removal and remedial actions.

8 I. This Order does not release Respondents from any claim,  
9 cause of action or demand in law or equity, including, but not  
10 limited to, any claim, cause of action, or demand which lawfully  
11 may be asserted by representatives of the United States or the  
12 State of California.

13 J. No informal advice, guidance, suggestions, or comments  
14 by EPA regarding reports, plans, specifications, schedules, and  
15 any other writing submitted by Respondents will be construed as  
16 relieving Respondents of its obligation to obtain such formal ap-  
17 proval as may be required by this Order.

18 XX. NOTICE OF INTENT TO COMPLY

19 Respondents shall, within two (2) days of the Effective Date  
20 of this Order, provide written notice to EPA stating whether  
21 Respondents will comply with the terms of this Order. Failure to  
22 respond, or failure to agree to comply with this Order, shall be  
23 deemed a refusal to comply with this Order.

24 XXI. OPPORTUNITY TO CONFER

25 A. Respondents may, within three (3) days of receipt of  
26 this Order, request a conference with EPA's Director of the Haz-  
27 ardous Waste Management Division, or whomever the Director may  
28 designate. If requested, the conference shall occur within seven

1 (7) days of the request, unless extended by mutual agreement of  
2 the Parties, at EPA's Regional Office, 75 Hawthorne Street, San  
3 Francisco, California.

4 B. At any conference held pursuant to Respondents'  
5 request, Respondents may appear in person, or be represented by  
6 an attorney or other representative. If Respondents desire such  
7 a conference, the Respondents shall contact Mark Klaiman,  
8 Assistant Regional Counsel, at (415) 744-1374.

9 C. The purpose and scope of any such conference held  
10 pursuant to this Order shall be limited to issues involving the  
11 implementation of the response actions required by this Order and  
12 the extent to which Respondents intend to comply with this Order.  
13 If such a conference is held, Respondents may present any  
14 evidence, arguments or comment regarding this Order, its  
15 applicability, any factual determinations upon which the Order is  
16 based, the appropriateness of any action which Respondents are  
17 ordered to take, or any other relevant and material issue. Any  
18 such evidence, arguments or comments should be reduced to writing  
19 and submitted to EPA within three (3) calendar days following the  
20 conference. This conference is not an evidentiary hearing, and  
21 does not constitute a proceeding to challenge this Order. It  
22 does not give Respondents a right to seek review of this Order,  
23 or to seek resolution of potential liability, and no official  
24 stenographic record of the conference will be made. If no  
25 conference is requested, any such evidence, arguments or comments  
26 must be submitted in writing within three (3) calendar days  
27 following the Effective Date of this Order. Any such writing  
28 should be directed to Mark Klaiman, Assistant Regional Counsel,

1 at the address cited above.

2 D. Respondents are hereby placed on notice that EPA will  
3 take any action which may be necessary in the opinion of EPA for  
4 the protection of public health and welfare and the environment,  
5 and Respondents may be liable under Section 107(a) of CERCLA, 42  
6 U.S.C. Section 9607(a), for the costs of those government  
7 actions.

8 XXII.SEVERABILITY

9 If any provision or authority of this Order or the applica-  
10 tion of this Order to any circumstance is held by a court to be  
11 invalid, the application of such provision to other circumstances  
12 and the remainder of this Order shall not be affected thereby,  
13 and the remainder of this Order shall remain in force.

14 XXIII.PENALTIES FOR NONCOMPLIANCE

15 Respondents are advised pursuant to Section 106(b) of  
16 CERCLA, 42 U.S.C. Section 9606(b), that willful violation or  
17 subsequent failure or refusal to comply with this Order, or any  
18 portion thereof, may subject Respondents to a civil penalty of up  
19 to \$25,000 per day for each day in which such violation occurs,  
20 or such failure to comply continues. Failure to comply with this  
21 Order, or any portion thereof, without sufficient cause may also  
22 subject Respondents to liability for punitive damages in an  
23 amount three times the amount of any cost incurred by the  
24 government as a result of the failure of Respondents to take  
25 proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C.  
26 Section 9607(c)(3).

27 \ \ \ \

28 \ \ \ \

## 1 XXIV. EFFECTIVE DATE

2 This Order is effective three (3) calendar days following  
3 receipt by Respondents unless a conference is requested as  
4 provided herein. If such a conference is requested, this Order  
5 shall be effective the second (2nd) calendar day following the - -  
6 day of such conference unless modified in writing by EPA.

## 7 XXV. TERMINATION AND SATISFACTION

8 The provisions of this Order shall be deemed satisfied upon  
9 Respondents' receipt of written notice from EPA that Respondents  
10 have demonstrated, to the satisfaction of EPA, that all of the  
11 terms of this Order, including any additional tasks which EPA has  
12 determined to be necessary, have been completed.

13 IT IS SO ORDERED:  
14

15 UNITED STATES  
16 ENVIRONMENTAL PROTECTION AGENCY  
17

18 By:

*Keith Takata*

Date: 9-3-93

19 *fw* Jeff Zelikson

Director

Hazardous Waste Management Division

Region 9  
20  
21  
22  
23  
24  
25  
26  
27  
28

## 1 EPA Region 9 Contacts:

2 Phillip Ramsey  
3 Remedial Project Manager (H-6-5)  
4 Hazardous Waste Management Division  
5 U.S. EPA, Region 9  
6 75 Hawthorne Street  
7 San Francisco, CA 94105  
8 (415) 744-2258

9 Mark Klaiman  
10 Assistant Regional Counsel  
11 Office of Regional Counsel  
12 U.S. EPA, Region 9  
13 75 Hawthorne Street  
14 San Francisco, CA 94105  
15 (415) 744-1374  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## ATTACHMENT

The following list, although not comprehensive, comprises many of the regulations and guidance documents that apply to the Investigation process:

The (revised) National Contingency Plan

"Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA," U.S. EPA, Office of Emergency and Remedial Response, October 1988, OSWER Directive No. 9355.3-01.

"Interim Guidance on Potentially Responsible Party Participation in Remedial Investigation and Feasibility Studies," U.S. EPA, Office of Waste Programs Enforcement, Appendix A to OSWER Directive No. 9355.3-01.

"A Compendium of Superfund Field Operations Methods," Two Volumes, U.S. EPA, Office of Emergency and Remedial Response, EPA/540/P-87/001a, August 1987, OSWER Directive No. 9355.0-14.

"EPA NEIC Policies and Procedures Manual," May 1978, revised November 1984, EPA-330/9-78-001-R.

"Data Quality Objectives for Remedial Response Activities," U.S. EPA, Office of Emergency and Remedial Response and Office of Waste Programs Enforcement, EPA/540/G-87/003, March 1987, OSWER Directive No. 9335.0-7B.

"U.S. EPA Region 9 Guidance for Preparing Quality Assurance Project Plans for Superfund Remedial Projects," 9QA-03-00, U.S. EPA Region 9 QAMs, September 1989.

"Users Guide to the EPA Contract Laboratory Program," U.S. EPA, Sample Management Office, August 1982.

"Health and Safety Requirements of Employees Employed in Field Activities," U.S. EPA, Office of Emergency and Remedial Response, July 12, 1981, EPA Order No. 1440.2.

OSHA Regulations in 29 CFR 1910.120 (Federal Register 45654, December 19, 1986).

Preparation of a U.S. EPA Region 9 Field Sampling Plan for Private and State-Lead Superfund Projects, Document Control Number 9QA-06-89, April 1990, U.S. EPA Region 9, Quality Assurance Management Section.